United Nations CCPR/C/FIN/CO/1/Add.2

International Covenant on Civil and Political Rights

Distr.: General
18 May 2015

Original: English
English, French and Spanish only

Human Rights Committee

Concluding observations on the sixth periodic report of Finland

Addendum

Information received from Finland on follow-up to the concluding observations*

[Date received: 1 May 2015]

Paragraph 10

(i) [B2]: Concerning the project to revise the legislation on the detention of aliens, additional information is required on the steps taken since the adoption of the Committee's concluding observations on 24 July 2013, particularly on:

(a) The progress on the adoption of such legislation, including information on when the new law is expected to be adopted;

(b) The alternative to detentions provided for in the legislation, including for adults; and

(c) Guarantees to ensure the administrative detention for immigration purposes is justified as reasonable, necessary and proportionate, including for detention of adults.

(ii) [C2]: Concerning the living conditions in the Metsälä detention centre, additional information is requested on the number of irregular migrants and asylum seekers detained in the last 3 years, as well as the length of detention and the capacity of the detention centre.

1. Detention is already the last resort in terms of interim measures. The threshold for detention is high, particularly in the case of minors. Asylum seekers placed in reception centres are free to move in Finland. However, if an asylum seeker's identity or travel route

* The present document is being issued without formal editing.

to Finland is unclear, the person can be accommodated in a detention unit while the matter is resolved. The detention unit is closed and the detainee is not allowed to leave the unit.

2. There are currently two detention units in Finland. One of the units is located in Metsälä, in Helsinki, adjacent to the Metsälä Reception Centre, which is a part of the City of Helsinki Department of Social Services and Health Care organisation. The detention unit can accommodate a total of 40 customers. In autumn 2014, a new detention unit that can accommodate 30 customers was opened in connection with the state-maintained Joutseno Reception Centre. The Finnish Immigration Service is responsible for the overall management, planning and supervision of the detention unit. After the new Joutseno detention unit was taken into use, there has been no need to place detained aliens in police facilities due to a shortage of capacity.

3. The Finnish Parliament has accepted Government Bill (HE 172/2014 vp) concerning amendments to the Aliens Act and the Act on the Treatment of Aliens Placed in Detention and Detention Units. The Bill prohibits the placement of minors in police detention facilities. The amendment prohibits detaining unaccompanied children seeking asylum. An unaccompanied child under 15 years of age may not be detained on any grounds. Moreover, an unaccompanied child who has reached 15 years of age may only be detained for a limited period of 72 hours, which may be prolonged by no more than another 72 hours based on exceptional circumstances. An unaccompanied child who has reached 15 years of age and is seeking asylum may only be detained after the child's application for international protection has been denied and the removal decision has become enforceable after an appeal process.

4. The alternative interim measures to detention are specified in sections 118—120 of the Aliens Act (301/2004). They are the obligation to report, handing over travel documents or travel tickets to the police or the border control authorities or giving them an address where the alien can be reached, or giving a security. The most frequently used alternative measure to detention is the obligation to report. Before an alien is detained, the possibility of using the other interim measures specified in the Aliens Act is always assessed. Section 5 of the Aliens Act stipulates respect for the rights of aliens. According to said Section, the application of the Act may not restrict aliens' rights any more than necessary. This general administrative principle of proportionality reinforces the primary use of the more lenient interim measures stipulated by the Aliens Act. No national statistics are available concerning the use of the alternative interim measures, which makes it difficult to assess their overall frequency of use. In practice, the alternative interim measures are used whenever they are considered sufficient for resolving the matter.

5. On 23 February 2015, the Ministry of the Interior set up a project to introduce specific alternative interim measures to detention. The objective of the project is to reduce the detention of, in particular, minors, vulnerable persons and aliens with families. The project involves investigating the possibility to introduce new — for example residence-related — obligations and the possibility for electronic control measures. The legislative amendments would probably enter into force in 2016.

6. As regards the aforementioned adopted amendments to the Aliens Act and the Act on the Treatment of Aliens Placed in Detention and on Detention Units, the National Police Board will review the instructions for police and make any changes needed. Furthermore, the development work is still in progress. Police authorities are involved in the legislative project which explores alternatives to detention.

Paragraph 11

(i) **[C1]: The Committee regrets that the reform of the Coercive Measures Act, which took effect on 1 January 2014, has not implemented the Committee's recommendation to ensure that persons arrested on criminal charges are brought before a judge within 48 hours of initial apprehension. The Committee reiterates its recommendation.**

7. In relation to the time limit of four days concerning remand cases Finland refers to aspects presented before. However some issues shall be repeated and emphasized. First of all, the time limit in question is a maximum limit. According to Chapter 3, Sections 4 and 5 of the Coercive Measures Act (806/2011) both the official presenting the request and the judge shall act without delay.

8. There are no international binding instruments concerning this time limit. According to the established practice of the European Court of Human Rights the maximum time limit is four days long. The starting point of this practice is decision Brogan and others v. United Kingdom of 28 November 1988. Information on international comparison which was available during the overall reform of the Coercive Measures legislation showed that there are variable provisions in different European countries concerning time limit, the amount of the limits (two in Finland) and the sum of days or hours coming from those limits and the circumstance the time limit is connected with (making the request, taking the request into consideration or deciding the request).

9. One new issue has to be pointed out. According to Finnish statistics most of the arrested persons are released during the first two days of the detention without the need to make a request for remand. If the time limit for bringing the person before a judge would be shorter than it is now it could cause unnecessary requests for remand. This would cause unnecessary remand decisions and lengthen deprivation of liberty. Because of this it is necessary that provisions in question are somehow flexible in an appropriate manner.

10. On 24 February 2014 the Ministry of Justice appointed a working group to examine, inter alia, the possibility of introducing different alternatives to remand imprisonment and the holding of remand prisoners in detention. The mandate of the working group lasts from 3 March 2014 to 31 December 2015. The group will also examine the possibility of strengthening the supervision of compliance with the travel ban connected with remand imprisonment by electronic means, and the possibility of transferring the responsibility for the custody of remand prisoners from the police — under the Ministry of the Interior — to the Ministry of Justice. The group will also assess the impacts of the transfer of responsibility on the custody conditions of remand prisoners.

[C1]: Concerning the right to legal assistance, information is required on practical measures taken to ensure that all suspects are guaranteed the right to a lawyer from the moment of apprehension.

11. According to Chapter 4, Section 10, subsection 2 of the Criminal Investigation Act (805/2011) the head investigator or the public prosecutor shall submit a request to the court for the appointment of a defender for the suspect when there is a reason for this on the basis of the provisions of Chapter 2, Section 1, subsection 3 of the Criminal Procedure Act. According to the referred subsection a defence counsel is to be appointed to a suspect ex officio, when 1) the suspect is incapable of defending himself/herself, 2) the suspect, who has not retained a defence counsel, is under 18 years of age, unless it is obvious that he/she has no need of a defence counsel, 3) the defence counsel retained by the suspect does not meet the qualifications required of a defence counsel or is incapable of defending the suspect or 4) there is another special reason for the same.

12. In the beginning of December 2014 Chapter 4, Section 10, subsection 1 of the Criminal Investigation Act was amended and new provisions (Sections 16 and 17) were added to Chapter 4. The new Section 17 covers notifications concerning a person who has been deprived of his or her liberty in connection with apprehension, arrest or remand. A written notification given without delay shall cover among other things the right to retain counsel of his or her own choice, the right to get a defender appointed on the basis of Chapter 2, Section 1 of the Criminal Procedure Act (107/1998) and the right to get free legal aid and a counsellor.

13. In Finland the right to legal assistance is based on legal provisions and reasoning in the Government Bill texts. To include in legislation exact provisions is the most effective way to ensure that this right is respected in practice. It's also a question of giving appropriate and comprehensive training to the criminal investigation officials.

Paragraph 16

(i) [B2]: The Committee takes note of the proposed revision of the Act on the Sami Parliament (974/1995) and of the legislative project concerning the reorganization of Metsähallitus, but requests additional information on:

(a) The progress on the adoption of the two legislative proposals; and

14. In September 2014 a Government Bill to revise the Act on the Sami Parliament (HE 167/2014 vp) was submitted to Parliament (see replies provided by the Government in June 2014, paras. 18-21). The Government Bill had been discussed and negotiated in a ministerial working group on Sami issues in 2013 and 2014. Before submitting the proposal to Parliament the Minister of Justice negotiated with the Sami Parliament. The Sami Parliament gave its consent to the proposal. The proposal contained several amendments to the Act, including a revision of the Sami definition. The Sami Parliament regarded the proposal of a new Sami definition the most important part of the whole Bill.

15. In February 2015 the Constitutional Committee of Parliament delivered its report. The Committee was not unanimous and a majority of the Committee members voted against the proposed revision of the Sami Definition. In March 2015 a vote in Parliament showed that the Government Bill, and more specifically its proposal concerning the Sami definition, would not be accepted by Parliament.

16. Wishing to respect the views of the Sami Parliament, the Government decided to withdraw the whole Bill rather than let Parliament pass a Bill that would not have the Sami Parliament's consent.

(b) How the State party ensures that Sami people participates in the discussions on the revision of the Act on the Sami Parliament and the legislative project concerning the reorganization of Metsähallitus.

17. In November 2014 a Government Bill to ratify the ILO Convention No. 169 (HE 264/2014 vp) was submitted to Parliament. The proposed amendments to Metsähallituslaki (Act on the Finnish Forest and Park Service) referred to in paragraph 22 of the Government's replies submitted to the Committee in June 2014 were contained in the Government Bill. This Government Bill is still pending in Parliament.

(ii) **[B2]: Concerning the measures taken to facilitate education in their own language for all Sami children in the territory of the State party, additional information is required on the nation-wide action plan to revive the Sami language and its impact on education in Sami language.**

18. In Finland, the status of the Sámi as indigenous people was recognized in the Constitution of Finland in the context of the fundamental rights reform in 1995. According to the Constitution of Finland (Section 17, paragraph 3), the Sámi as indigenous people have the right to maintain and develop their own language and culture. Thus, the provision secures the collective right of the Sámi to maintain and develop their language and culture.

19. The Constitution of Finland (Section 121, paragraph 4) also guarantees the Sámi linguistic and cultural self-government within the Sámi Homeland Area (Sámi native regions), as provided by an Act.

20. The Act on the Sámi Parliament (974/1995) regulates the implementation of the self-government in more detail. The cultural self-government is intended to evolve, and will be taken into account in future legislative and administrative work.

21. The Skolt Act (253/1995) aims at enhancing the living conditions and livelihoods of the Skolt Sámi, as well as maintains and promotes the Skolt culture.

22. The right of the Sámi to use their own language before courts and other authorities as well as the obligations of public authorities to realise and promote the linguistic rights of the Sámi are regulated by the Sámi Language Act (1086/2003).

23. Sámi culture is supported in various ways in Finland. There is an annual appropriation in the State budget for the self-government system of Sámi people. In addition, the State budget provides other additional funds for the Sami people for the maintenance and development of their language, culture and art.

24. The Government approved in July 2014 the Action Program for the Revitalization of Skolt Sámi, Inari Sámi and North Sámi languages. The program reinforces, inter alia, the Sámi language early childhood education and language nest activities and the development of the Sámi language education throughout the country, including outside the Sámi Homeland, which is home to about 70% of the Sámi children and young people. Distance learning will be developed to ensure the education outside the Sami Homeland. In addition, there is a need to add Sámi language skills of qualified early childhood education and the teaching staff, as well as to increase earmarked funding for the production of learning materials.

25. In order to meet the challenges concerning the right to education outside Sámi Homeland area in the Sámi language, the minimum amount of group of Sámi students to get state aid to study Sámi language has been dropped from four to two beginning from year 2010.

26. The State allowance for producing teaching material in Sámi language has increased considerably. It was 290,000 euros in 2013, 400,000 euros in 2014 and 500,000 euros in 2015.

27. The National Board of Education has given state funding for in service training of teachers concerning the revival of Sami language and language immersion in Sámi language.

28. The Sámi Parliament participated extensively to the preparation of the Program. The Sámi Parliament appointed their member to the committee and their representative to the secretariat of the committee. The Sámi Parliament, among the other key institutions, gave their opinion on the draft program. In addition, the negotiations, in accordance with the

article 9 of the Act on Sámi Parliament, were held in January 2014 between the Ministry of Education and Culture and the Sámi Parliament.

29. The Sámi Parliament's cultural committee receives State funding which it distributes further for the activities of Sámi organizations and promotion of Sámi culture. In addition, the State budget allocates support, among other things, for the Sami children's culture, music and film centers, public libraries and library cars, physical activities (for example by assisting sports associations like Kalottiurheilu Association and the Lapland Sports) and for Sámi's international activities.

30. The media also plays an important role in revitalizing the Sami languages. The aim is that the Sami language media services in all three Sámi languages will be increased and that the program cooperation will be made across borders with Sweden and Norway.

31. The Sámi Museum Siida, located in Inari, is supported also through State budget appropriations. Siida is a special museum which stores in its collections the Finnish Sámi immaterial and material culture and presents it in various exhibitions and publications. The main objective of the museum is to support the Sámi identity and cultural self-esteem. The museum is also responsible for the archaeological cultural heritage and its management in the Sámi area according to the contract drawn up between the National Board of Antiquities and the Sámi museum in 2011. In 2015, the contract was updated and extended to cover all the expert activities related to the Sámi homeland cultural environment.

32. Finland has actively participated in the meetings of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC-GRTKF) of the World Intellectual Property Organization WIPO. The aim is to prepare the instrument or instruments on the protection of genetic resources, traditional knowledge and traditional cultural expressions of indigenous and local communities. In addition, a national law is being drafted in Finland on genetic resources, which brings into effect the so-called Nagoya Protocol on genetic resources and access to and availability of associated traditional knowledge, as well as on the benefit-sharing. The Government Bill will be submitted to Parliament before the summer.